



STATE OF WASHINGTON
— OFFICE OF GOVERNOR JAY INSLEE —

May 16, 2023

To the Honorable President and Members,
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to Sections 124(5), 129(80), 129(92), 132(20), 147(7), 153(8), 202(26), 207(2), 207(3), 211(31), 223(5)(a), 223(6)(e), 223(7)(b), 225(20), 228(17), 310(38), 729, 743, 1220(4), page 1105, line 39, page 1106, line 1, 1517(47)(o), 1612(3), 1708, 119(3), 308(36), and 215(110), Engrossed Substitute Senate Bill No. 5187 entitled:

"AN ACT Relating to fiscal matters."

Section 124(5), page 33, Office of the State Auditor, Special Education Performance Audit

Engrossed Substitute House Bill 1436 (Section 2) directs the Office of the State Auditor to conduct a special education performance audit and access records as authorized representatives of the education authorities. I vetoed this section of ESHB 1436, and no audit will be conducted. Therefore, no funding is needed. For this reason, I have vetoed Section 124(5).

Section 129(80), pages 73-74, Department of Commerce, Human Service Provider Contracts Work Group

This section directs the Department of Commerce to convene a work group to examine expenses allowed in human service provider contracts in Washington state's local and state contracting processes. Because the funding in this proviso expires before the report is due and an inadequate amount was provided to complete this work, I have vetoed Section 129(80).

Section 129(92), page 78, and Section 917, pages 663-665, Department of Commerce, Housing Supply and Affordability Task Force

Section 917 creates a task force comprised of legislators, local elected officials, state agency representatives and stakeholders to identify strategies to increase the diversity and supply of affordable housing. This task force is co-chaired by legislators and will receive staff support from the Department of Commerce. As a legislative task force, staff support should be provided by legislative staff and not executive branch agency staff. In addition, the funding provided in Section 129(92) is insufficient to complete this work. For these reasons, I have vetoed both Sections 129(92) and 917.

Section 132(20), pages 102-103, Department of Commerce and Utilities and Transportation Commission, Net Metering Work Group

This section directs the Department of Commerce and the Utilities and Transportation Commission to convene a work group to study the future of net metering in Washington state. Because funding was not provided to do this work, I have vetoed Section 132(20). However, I am directing the department and the commission to request funding in the next budget to adequately support a work group for this purpose.

Section 147(7), page 132, Utilities and Transportation Commission, Compensation Information

This section requires communication providers who receive a distribution pursuant to RCW 80.36.650 to provide detailed compensation information for their officers, directors and the five highest paid employees to the commission. This adds requirements to the underlying statute, and therefore, it should have been amended. This work is also unfunded. For these reasons, I have vetoed Section 147(7).

Section 153(8), page 139, Department of Enterprise Services, Building Code Council Technical Advisory Group

This section directs the State Building Code Council to convene a technical advisory group to evaluate the implementation and enforcement of laws, codes and rules related to smoke control and fire/smoke dampers and make recommendations for changes. The funding provided for this work is inadequate. For this reason, I have vetoed Section 153(8).

Section 202(26), page 163, Department of Social & Health Services, Feasibility Study

This section requires the agency to report on the feasibility of using the former Naselle Youth Camp facility to create additional forensic bed capacity for individuals in jails awaiting admission to the state hospitals who are class members of Trueblood, et al. v. Department of Social and Health Services, et al. This feasibility study is unfunded and duplicative of the Office of Financial Management task force that is created in Section 913 of this budget bill. For these reasons, I have vetoed Section 202(26). However, I am directing the OFM task force to consider the use of the Naselle Youth Camp for forensic bed capacity in its work.

Sections 207(2) and 207(3), pages 206-207, Department of Social & Health Services, Community Notice and Consultation on Placement of Sexually Violent Predators

These provisos are administratively burdensome for the Department of Social and Health Services Special Commitment Center program when siting Less Restrictive Alternatives in communities throughout the state. These additional administrative tasks will likely result in the delay and availability of placement options for individuals ordered by a court to be moved out of the McNeil Island facility. For this reason, I have vetoed Sections 207(2) and 207(3).

Section 211(31), pages 222-224, Health Care Authority, Performance Measures and Per Capita Forecast Work Group

This section requires the Health Care Authority to develop new managed care performance measures for calendar year 2025 in collaboration with the Medical Assistance Expenditure Forecast Work Group. Quality measure determination is

not within the scope or expertise of this work group and would be better addressed by health care clinical and policy subject matter experts. For this reason, I have vetoed Section 221(31).

Section 223(5)(a), page 352, and Section 223(6)(e), page 353, Department of Corrections, Discharge Planning Requirements

These sections fund the expanded discharge planning requirements for the Department of Corrections in Second Substitute Senate Bill 5134. Sufficient funding was not provided for this purpose. Therefore, I have vetoed Sections 223(5)(a) and 223(6)(e).

Section 223(7)(b), page 354, Department of Corrections, Restrictive Housing Health Evaluations

This section requires the Department of Corrections to conduct a mental and physical health medical evaluation on incarcerated persons who have been in restrictive housing and provide a report by June 30, 2024. Funding provided for this purpose is insufficient to evaluate all of the individuals required, and it is unclear that the information gathered would be useful. We are making consistent investments to reduce the use of restrictive housing in Washington prisons and alleviate its known negative impacts. For these reasons, I have vetoed Section 223(7)(b).

Section 225(20), pages 360-361, Employment Security Department, Washington Cares Program

The Employment Security Department and the Department of Social and Health Services collaborate on communications and outreach efforts of the Washington Cares program. The requirements in this section are redundant to the collaboration already occurring and required in RCW 50B.04.020(6). It is also unclear which agency has final approval authority on employer communications related to the program. For these reasons, I have vetoed Section 225(20). However, I am directing the Employment Security Department to continue collaborating with the agencies involved in the Washington Cares program on external communications of the program to ensure consistent and agreed upon messaging is provided to employers and Washingtonians.

Section 228(17), page 380, Department of Children, Youth, and Families, SSB 5672

This section provides funding for Substitute Senate Bill 5672 that did not pass the Legislature. For this reason, I have vetoed Section 228(17).

Section 310(38), pages 446-447, Department of Natural Resources, Lease Approval Requirement

This section requires the Department of Natural Resources to seek approval for nearly all new leases or existing lease renewals from the Board of Natural Resources (Board). This would require the Board to review and approve hundreds of state trust land, forestland, upland and aquatic land leases every month. The Board also does not have legal oversight of state aquatic lands and leases entered into by the department. In addition, the funding provided for this work is insufficient and would result in delays for the agency, the Board, and lessees,

as well as a loss of revenue for trust beneficiaries and aquatic accounts that serve as a funding source for other agencies. For these reasons, I have vetoed Section 310(38).

Section 729, pages 630-631, Office of Financial Management, Lease Cost Pool

The lease cost pool is an ineffective approach to managing lease costs and is redundant to the existing modified pre-design process that reviews space needs and budgets. For these reasons, I have vetoed Section 729.

Section 743, pages 635-638, Office of Financial Management, Office Space Use Reductions

This section refers to outdated data for leases that have already been renewed. For this reason, I have vetoed Section 743. However, I am directing the Office of Financial Management, in collaboration with the Department of Enterprise Services, to identify expiring leased office space that can be reduced. Funds saved will be moved to reserve status.

Section 1220(4), Page 1105, line 39, and page 1106, line 1, Department of Corrections, General Fund-State Appropriation (FY 2023)

The 2023 supplemental budget provisos over \$17 million for the Department of Corrections to pay for COVID-19 expenditures from fiscal year 2021 that were expected to be paid with federal funds. However, the Legislature did not provide additional funding.

The department does not anticipate having this much available in its base budget at the end of the fiscal year. Section 1220(4) includes an \$8.4 million reduction tied to lower caseloads that can be restored to provide the agency with the funding it needs to close the fiscal year. For this reason, I have vetoed the change to the fiscal year 2023 General Fund-State appropriation in Section 1220(4).

Section 1517(47)(o), page 1305, Office of the Superintendent of Public Instruction, ESSER Federal Funding

This section reduces the appropriation of Elementary and Secondary School Emergency Relief (ESSER) III funding for the Office of the Superintendent of Public Instruction. This reduction in funding includes fiscal years 2021, 2022 and 2023. A portion of this funding is within closed fiscal years and can no longer have changes in appropriation. For this reason, I have vetoed Section 1517(47)(o). However, I am asking OSPI to prioritize spending down ESSER II before ESSER III to ensure that all federal funding is spent prior to its expiration date.

Section 1612(3), pages 1372-1373, Arts Commission, Coronavirus State Fiscal Recovery Proviso

This section amends the appropriation for a closed fiscal year and cannot be legally implemented. Therefore, I have vetoed Section 1612(3).

Section 1708, pages 1378-1380, Office of Financial Management, Office Space Use Reductions This section requires agencies to reduce leased office space in the

current biennium. Agencies do not have time to complete this work. In addition, the section refers to outdated data for many leases that have already been renewed and for which the space cannot be reduced. For these reasons, I have vetoed Section 1708.

The following sections provide funding to agencies to implement bills which did not pass the Legislature. Because the funding has lapsed, I have vetoed Section 119(3), Section 308(36), and Section 215(110).

Section 119(3), page 23, Public Disclosure Commission, ESSB 5284, Campaign Finance Disclosure

Section 308(36), page 433, Department of Fish & Wildlife, 2SHB 1010, Sanitary Control of Shellfish

Section 215(110), page 290, Health Care Authority, HB 1681, Problem Gambling

For these reasons I have vetoed Sections 124(5), 129(80), 129(92), 132(20), 147(7), 153(8), 202(26), 207(2), 207(3), 211(31), 223(5)(a), 223(6)(e), 223(7)(b), 225(20), 228(17), 310(38), 729, 743, 1220(4), page 1105, line 39, page 1106, line 1, 1517(47)(o), 1612(3), 1708, 119(3), 308(36), and 215(110) of Engrossed Substitute Senate Bill No. 5187.

With the exception of Sections 124(5), 129(80), 129(92), 132(20), 147(7), 153(8), 202(26), 207(2), 207(3), 211(31), 223(5)(a), 223(6)(e), 223(7)(b), 225(20), 228(17), 310(38), 729, 743, 1220(4), page 1105, line 39, page 1106, line 1, 1517(47)(o), 1612(3), 1708, 119(3), 308(36), and 215(110), Engrossed Substitute Senate Bill No. 5187 is approved.

Respectfully submitted,



Jay Inslee
Governor